

MDR Tracking Number: M5-04-0517-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 10-20-03.

The IRO reviewed DME, office visits, hot/cold packs, electric stimulation, myofascial release, manual traction, therapeutic exercises, and joint mobilization from 4-11-03 through 7-22-03.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the majority of the medical necessity issues. The IRO concluded that the DME, office visits, hot/cold packs, electric stimulation, myofascial release, manual traction, and therapeutic exercises were found to be medically necessary. The IRO agreed with the previous determination that the joint mobilization was not medically necessary. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 1-7-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Max. Allowable Reimbursement)	Rule Reference	Rationale
4/21/03 7/22/03 4/28/03	99212-25 99212 99212.25	\$45.00 \$45.00 \$45.00	\$32.00 \$0.00 \$32.00	F F No EOB	\$32.00	133.307(g)(3) (A-F)	DOS 4/21/03 paid per carrier's check # 08882931 paid 6/9/03 and DOS 7/22/03 paid per check # 9016881 paid 10/3/03; therefore, no dispute. Since no EOB provided for DOS 4/28/03 this review will be per the MFG. Daily notes support delivery of service; therefore, recommend reimbursement of \$32.00.

7/22/03	E1399	\$495.00	\$0.00	U	DOP	134.600(h)(11)	Carrier denied as unnecessary medical; however, on 7/8/03 the carrier preauthorized the purchase of a TENS unit. Recommend reimbursement of \$495.00.
TOTAL		\$630.00	\$0.00				The requestor is entitled to reimbursement of \$527.00.

The above Findings and Decision is hereby issued this 27<sup>th</sup> day of February 2004.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

### ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for dates of service 4-11-03 through 7-22-03 in this dispute.

This Order is hereby issued this 27<sup>th</sup> day of February 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

January 6, 2004

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

MDR Tracking #: M5-04-0517-01  
IRO #: 5251

\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to \_\_\_ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

### CLINICAL HISTORY

This patient was working at a service station when he was robbed while opening the store. He suffered an injury to the head from a coffee pot hit and had a large desk slammed against his lumbar spine, causing an immediate onset of low back pain. MRI revealed an 8 mm protrusion at L5 lacking encroachment to the neuroforamen. Electrodiagnostic studies indicated a L4 and L5 radiculopathy on the right. Discogram indicated concordant pain at L5/S1 with less pain at L4/5 and L3/4. Post discogram CT was significant only for the presence of a previous lumbar laminectomy at L3/4 and L5 on the left. The treating doctor utilized passive and active therapy along with chiropractic in an attempt to keep the patient under conservative care. Unfortunately, the patient did require surgical intervention in the form of a L4/5 and L5/S1 anterior interbody fusion on July 20, 2003. He was found to not be at MMI as of September 11, 2003 by \_\_\_, who was a designated doctor for the TWCC. He indicated that MMI should be attained by the patient as of March 11, 2004.

### DISPUTED SERVICES

Under dispute is the medical necessity of DME, office visits, hot/cold packs, electric muscle stimulation, myofascial release, manual traction, therapeutic exercises and joint mobilization.

### DECISION

The reviewer agrees with the prior adverse determination for joint mobilization (97265).

The reviewer disagrees with the prior adverse determination for all other treatment rendered.

### BASIS FOR THE DECISION

The treatment rendered on this case clearly was in response to a very severe injury, which does not fit within the normal treatment parameters. This patient was found to be a surgical case after these extensive attempts at rehabilitation. The attempts to rehabilitate the patient were reasonable efforts by the treating doctor. The treatments offered were well within established guidelines and protocol. The carrier's own doctor indicated that an active treatment program was reasonable and the \_\_\_ reviewer concurs. However, the reviewer believes that the small amount of passive care was to be expected on this case due to the fact that this patient was post-surgical from a previous injury, making it even more difficult to rehabilitate such an injury. The treating doctor did as he was trained by treating the patient with the care that was most appropriate to the patient. While this patient eventually required surgery, the doctor owed it to the patient to try to avoid surgery. The electric muscle stimulation and joint mobilization were inappropriate at this stage of the patient's care. Muscle stimulation would be of little value to the patient and the active portion of the program was much more appropriate. Joint mobilization is a form of manipulation, which was covered in the initial office visit.

\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_ has made no determinations regarding benefits available under the injured employee's policy

As an officer of \_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,